IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWELFTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 12906 of 1997

Between:

1. The Managing Director, A.P.State Seeds

Development Corporation Ltd,HACA Bhavan,Hyderabad.

2. The Regional Manager, A.P.State Seeds Development

Corporation Ltd., Madikonda, Warangal.

..... PETITIONERS

AND

1. The Authority under the payment of wages Act,1936

and Assistant commissioner of Labour, Warangal.

2. P.Rambabu s/o Venkatanarayana

3. S.Raja lingam s/o Mallaiah

4. T.Venkateshwarlu s/o Pitchaiah

5. I.Srinivas s/o Ilaiah

6. G.Balaraju s/o saraiah

7. L.Radhamma w/o Rajaiah

8. P.Eshwaraiah s/o Balaiah

9. K.Sambaiah s/o Laxmaiah

10. L.Raju s/o veeramallu

11. V.Chandraiah s/o Ramaiah

12. J.Swamy s/o Mallaiah

13. G.Seshidharan Nair, s/o Gopal Nair

14. P.Dassu s/o Muthaiah

15. T.Vijaya Prasad s/o Rama Murthy

c/o P.M.Vijay, working President

R.2 to R.15 are R/o H.No.2-6-1167, Srinivasanagar, Hanamkonda, Warangal.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction, particularly one in the nature of certiorari, calling for the records relating to the order dated 29.3.1997 in P.W. Case No.2/96 (File No.C/1099/96) on the file of the first respondent and quashing the said order and also the proceedings in the said P.W. Case No.2/96 (file no. C/1099/96) holding the same as wholly illegal and without jurisdiction.

Counsel for the Petitioners: MR.S.RANGA REDDY

Counsel for the Respondent Nos.2 to 15: MR.A.K.JAYAPRAKASH RAO

The Court made the following:

ORDER:

This writ petition is filed by the Management of A.P. Seeds Development Corporation Limited, aggrieved by the order passed by the 1st respondent, which is the authority under the Payment of Wages Act, which passed an order, condoning the delay in filing the application before it, for payment of certain amounts of wages due to the respondents 2 to 15 for the period from 01-01-1998 to 31-12-1995. In the process, as there was no proper union representing the workers, a union was formed in the year 1991. It is stated that some of the workers have approached the Industrial Tribunal by filing applications under Section 33 (c) (2) of the Industrial Disputes Act, seeking the relief of payment of wages, which were not paid to them, therefore there was delay and hence, the petition along with an application to condone the delay. The petition to condone the delay was contested by the present petitioners. Apart from the fact that some of the workers, who have filed application before the Industrial Tribunal-cum-Labour Court, under Section 33 © (2) of the Act, was allowed in part, further, it was stated that a writ petition was also filed questioning the said order, in W.P.No.6389 of 1994, before this Court. Finally, this Court dismissed the said writ petition. The main grievance of the petitioners in this writ petition is that the 1st respondent authority has condoned the delay even though

there was no proper explanation by the claimants-respondents 2 to 15 herein. Therefore, the petitioners sought to set aside the impugned order passed by the 1st respondent.

At the time of hearing, the learned counsel for the petitioners contended that the 1st respondent-authority has no jurisdiction even to entertain the application. Therefore, even on that ground also, the impugned order is liable to be set aside.

Learned counsel for the respondents 2 to 15, on the other hand, supported the order passed by the 1st respondent. Learned counsel also contended that the 1st respondent authority after considering the material on record, and having satisfied that there were justifiable reasons for condoning the delay, exercised the discretion vested in it and condoned delay. Therefore, there are no grounds to interfere with the order passed by the 1st respondent. In support of his contention, he relied upon a judgment of the Apex Court in ***Hindustan Aeronautics V. Ajit Prasad***, wherein the Apex Court had an occasion to consider the order passed by the High Court, while exercising jurisdiction under Section 115 CPC. The Apex Court held that the High Courts would not interfere in such order, unless the Tribunal exercises its jurisdiction illegally, or passes an order with material irregularities. Therefore, the learned counsel sought for dismissal of the writ petition.

Heard the learned counsel for the petitioners and learned counsel for the respondents and considered the material on record.

The dispute in the present writ petition is as to whether the 1st respondent-authority condoned the delay in entertaining the claims of the respondents-workmen after properly exercising the jurisdiction vested in it. According to the writ petitioners, the authority condoned the delay even though the delay was not properly explained by filing necessary affidavit. As the authority failed to consider the explanation properly or failed to exercise its jurisdiction properly, the impugned order is liable to be set aside. No doubt, the order may not show all the details, as to how the delay had occurred, with reference to day to day delay. However, the authority under the Payment of Wages Act, has condoned the delay in substance after hearing the parties and considering the rival contentions. According to the respondents-workmen, there was no union till 1991, and even thereafter also, some of the workmen have approached the Industrial Tribunal. Under those circumstances, it

was explained that there was a delay in approaching the 1st respondent-authority. The 1st respondent authority has considered the explanation offered by the workmen and condoned the delay. Therefore, I do not find that there are any justifiable grounds, warranting interference with the said impugned order.

With reference to the other grounds raised by the writ petitioners as to the jurisdiction or the relationship between the workmen and the petitioners, it is always open to them to raise all those grounds before the 1st respondent-authority, when the main application is taken up, and if such contentions are advanced, it is for the 1st respondent-authority to adjudicate upon those issues, in accordance with law.

The writ petition is accordingly dismissed. No costs.

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12-08-2004

gj

To

1. The Authority under the payment of wages Act,1936

and Assistant commissioner of Labour, Warangal.

2. Two C.D. copies.